

### **REMARKS**

The claims (1-3 and 9) have been rejected under 35 U.S.C. §103(a) as being obvious in view of Stockley and U.S. Patent No. 6,748,726 to Rossi et al. ("Rossi"). Claims 4-8 were rejected as above with the addition of Sanfilippo.

The Examiner admitted in the rejection to claims 1-3 and 9, that Stockley does not teach "clamping of the edges upper film by closing the chamber parts...where the film is clamped at it's edges prior to being sealed to tray..." Rossi is introduced in the Action to allegedly teach the deficiency of Stockley.

As detailed in the response dated November 27, 2007, in Applicant's invention, there is (1) clamping of the upper film along the edge by closing the sealing station, (2) stretching, e.g., upwardly, (3) then movement of the tray upwardly for sealing with the upper film.

This is to be contrasted with Stockley, wherein the upper film 24 is first pulled (by vacuum), i.e., stretched across the dome of the upper part of the chamber before any clamping. Stockley's chamber is then closed. Finally, Stockley releases the vacuum on the film for it to "drape and shrink over the product." (11, 8-10). Applicant's invention, again, clamps along the tray edge, stretches, then raises the tray for sealing, all in a manner very different from Stockley.

Rossi does not, in fact, teach or suggest the deficiency of Stockley noted above. Close inspection of Rossi clearly shows that the film 11 is not clamped by upper and lower chamber parts 3 and 2 as alleged by the Examiner (see Figs. 1-3) along its' edges. It is noted that the chamber parts do not ever clamp the film at the right edge of the figure (see Fig. 1), and furthermore, is clamped with the tray along a left side of the figure by the chamber parts.

Specifically, in Rossi, film 11 enters the right side of the chamber through a slot in the upper chamber part. The upper chamber part 3 is seen to clamp the tray 4a at part 18 together

with the film 11 at the left side and only clamps the tray 4 at 4a on the right side. So, the film, as taught by Rossi, is not shown or suggested as being clamped "along an edge surrounding the tray," *only along part of the edge surrounding the tray* and then only then clamped along with the tray.

Figure 3 of Rossi shows a welding head inside of the chamber which lowers to weld the film to the tray. However, the welding step is the final operation and therefore, does not teach or suggest clamping of the surrounding film edge prior to sealing the film to the tray, or before other operations and thus, the welding step does not teach the deficiency of Stockley.

Since all of the claims require *clamping an edge of the film surrounding the tray, prior to the film being stretched and then sealed*, Rossi is clearly deficient in supplying the admitted missing limitations of Stockley. Because the combination of Stockley and Rossi do not teach all of the claim limitations, the Examiner has not proven a *prima facie* case of obviousness, and further, the Examiner provided no evidence or logical reason suggesting modification of the Stockley and/or Rossi teachings to supply the noted deficiency.

Moreover, the operation and structure of the devices shown in Stockley and Rossi are divergent enough that combining them would amount to "picking and choosing," without any apparent logical reason provided to do so, even if all of the present claims limitations were taught, which, as has been demonstrated above, is not the case.

The rejection of Claims 4-8 combined Sanfilippo with the above references, but the deficiency of Rossi is not taught in Sanfilippo. Similar to Claim 1, Claim 4 recites that, "...the chamber is closed after the supply of the tray and by closing to thereby firmly clamp the upper film along an edge surrounding an edge of the tray..." So, again, as in Claim 1, Claim 4 requires that the film is clamped along an edge surrounding an edge of the tray, and not just part of the edge of

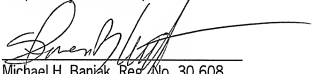
the tray.

Claims 1-3 and 9 are not obvious in view of Stockley and Rossi, because, as shown above, there is no *prima facie* case of obviousness, nor is there any motivation or suggestion given in the Action or elsewhere to modify the prior art devices to provide the missing elements of the claims.

Claims 4-8 are not obvious in view of the combination of Stockley and Rossi, and further of Sanfilippo, because Sanfilippo does not provide the deficiency of Rossi. Therefore, the rejections based on 35 C.F.R. §103(a) are traversed.

A Notice of Allowance is respectfully requested.

Respectfully submitted,



Michael H. Banjak, Reg. No. 30,608  
Steven B. Courtright, Reg. No. 40,966

Date: April 14, 2008

McDonnell Boehnen Hulbert & Berghoff LLP  
300 S. Wacker Drive  
Chicago, Illinois 60606  
312.913.0001